

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION**

Quincy A. Price)
Plaintiff,) Civil Action No. 2:14-cv-04193-JMC
v.)
Lt Tonya Huntley,)
Defendant.)

)

ORDER

Plaintiff, proceeding *pro se*, brought this action seeking relief pursuant to 42 U.S.C. § 1983. This matter is before the court for review of the Magistrate Judge's Report and Recommendation (ECF No. 38), filed on September 2, 2015, recommending that Plaintiff's action (ECF No. 1) be dismissed with prejudice for failure to prosecute and for failure to comply with the Magistrate Judge's orders.

The Magistrate Judge's Report is made in accordance with 28 U.S.C. § 636(b)(1) and Local Civil Rule 73.02 for the District of South Carolina. The Magistrate Judge makes only a recommendation to this court, which has no presumptive weight—the responsibility to make a final determination remains with this court. *See Mathews v. Weber*, 423 U.S. 261, 270–71 (1976). The court is charged with making a *de novo* determination of those portions of the Report to which specific objections are made, and the court may accept, reject, or modify, in whole or in part, the Magistrate Judge's recommendation or recommit the matter with instructions. *See* 28 U.S.C. § 636(b)(1).

The Magistrate Judge entered an order in this case on June 23, 2015, pursuant to *Roseboro v. Garrison*, 528 F.2d 309 (4th Cir. 1975), advising Plaintiff of the importance of him

filings an adequate response to Defendant's Motion for Summary Judgment (ECF No. 32) and of the need for him to file an adequate response. (ECF No. 34.) Plaintiff failed to respond. The Magistrate Judge then directed the Plaintiff to advise the court whether he wishes to continue with this case and to file a response by August 27, 2015. (ECF No. 36.) Plaintiff again failed to respond.

The Magistrate Judge concluded: “[I]t appears that the Plaintiff no longer wishes to pursue this action.” (ECF No. 53 at 1.) The Magistrate Judge thus recommends that this court dismiss Plaintiff's action pursuant to Rule 41(b) of the Federal Rules of Civil Procedure. (*Id.* referencing relevant factors to consider, as outlined in *Chandler Leasing Corp. v. Lopez*, 669 F.2d 919, 920 (4th Cir. 1982).)

Upon review of the Report and the record in this case, the court agrees with the Magistrate Judge's conclusion in this regard. This court therefore **ADOPTS** the Magistrate Judge's Report and Recommendation (ECF No. 38). It is therefore **ORDERED** that Plaintiff's action (ECF No. 1) be **DISMISSED** with prejudice for failure to prosecute and that Plaintiff's Motion to Appoint Counsel (ECF No. 23) and Defendant's Motion for Summary Judgment (ECF No. 32) both be rendered moot.

IT IS SO ORDERED.



United States District Judge

November 3, 2015
Columbia, South Carolina